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Before the  
Federal Communications Commission  
Washington, DC

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	MM Docket No. <u>92-281</u>
	)	
Amendment of Section 202(b),	)	
Table of Allotments,	)	RM-8118
FM Broadcast Stations	)	
(Columbia Falls, Montana)	)	

To: Chief, Allocations Branch

**OPPOSITION FOR PETITION FOR RECONSIDERATION**

Frank Copsidas, Jr. ("Copsidas"), by his attorney, hereby submits his opposition to the "Petition for Reconsideration" ("Petition") filed by Bee Broadcasting, Inc. ("Bee") on April 1, 1993 in this proceeding. With respect thereto, the following is stated:

Copsidas requested and was granted the substitution of Channel 240C2 for Channel 240A at Columbia Falls, Montana. Copsidas demonstrated in his Petition and Reply Comments that the

than Columbia Falls."

Reconsideration of the Commission's decision is not warranted. Both matters were raised previously by Bee in its Comments. It is well established that the Commission does not grant reconsideration to debate matters on which the Commission already has deliberated and spoken. WWIZ, Inc., 37 F.C.C. 685 (1965), aff'd sub nom., Loraine Journal Co. v. FCC, 351 F.2d 824 (D.C. Cir. 1965), cert. denied, 383 U.S. 967 (1966).

Moreover, under the Commission's rules:

[a]ll predictions of coverage made pursuant to this section shall be made without regard to interference and shall be made only on the basis of estimated field strengths.

47 C.F.R. § 73.313(a). With respect to Copsidas' coverage of Columbia Falls, Copsidas presented a terrain profile demonstrating that Copsidas will provide a predicted city-grade signal to Columbia Falls. The Commission has independently confirmed the accuracy of Copsidas' study. Report and Order ¶ 4. Thus, the non-analytical, anecdotal information provided by Bee in this proceeding has no place in this proceeding, and properly was disregarded. Additionally, it is important to note that although permitted to do so under the Section 73.313 of the Commission's Rules, Bee significantly provided no engineering study showing that the distances to Copsidas' pertinent contours would be other than would be determined by the Commission's standard prediction method.

47 C.F.R. § 73.313(e). For this reason, as well, Bee's criticism of Copsidas' engineering showing is wholly without merit. Therefore, it was proper for the allotment to be adopted.

Vacaville and Middletown, CA, 6 FCC Rcd 143, 145 ¶ 12 (Chief, Policy and Rules Div. 1991).

As to the claims that Copsidas intends to provide primary service to Kalispell and Whitefish and to abandon service to Columbia Falls, Bee continues to rest merely on speculation and surmise. The newspaper article submitted by Bee (Bee Comments at Attachment 2) was not "evidence,"<sup>1</sup> and even if it was, all it demonstrates is that Copsidas intends to operate in accordance with the Commission's Rules. Section 73.1125 of the Rules currently requires only that stations maintain a main studio within a station's principal community contour. 47 C.F.R. § 73.1125(a). As established in Copsidas' Reply, locations in Whitefish amply satisfy that rule. Copsidas Reply, Engineering Statement ¶ 7 & Exh. 4. Further, the Commission was justified in not formally dignifying Bee's claims. In Van Wert, Ohio and Monroeville, IN, 7 FCC Rcd 6519 n.1 (Chief, Allocations Branch 1992); Greenwood, Seneca, Aiken, and Clemson, SC, and Biltmore Forest, NC, 2 FCC Rcd 3583, 3586 ¶ 22 (Chief, Policy and Rules Div. 1987), the Commission established that such claims will not be considered in allotment proceedings. See also, Eatonton and Sandy Springs, GA, and Anniston and Lineville, AL, 70 R.R.2d 182, 185 ¶ 9 (Chief, Mass Media Bureau 1991) ("as a general matter, the motivations of the parties are not relevant in an allotment proceeding"), citing the

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<sup>1</sup> Newspaper articles does not constitute creditable "evidence." Henderson Broadcasting Co., 39 R.R.2d 257 (Rev. Bd. 1976); Shareholders of GAF Corp., 7 FCC Rcd 3225, 3228 n.15 (1992); News International PCL, 97 F.C.C.2d 349, 358 ¶ 22 (1984).

Commission Report and Order in The Suburban Community Policy, the Berwick Doctrine, and the De Facto Reallocation Policy, 53 R.R.2d 681 (1983).

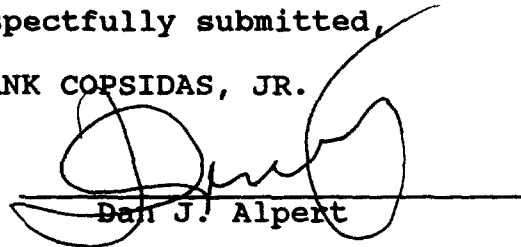
Bee's allegation were without merit and properly were quickly disposed of by the Commission. For the reasons stated above, the Report and Order, DA 93-151, released by the Commission on March 2, 1993, should be affirmed.

WHEREFORE, it is respectfully requested that the "Petition for Reconsideration" filed by Bee Broadcasting, Inc. be denied, and Commission's decision to modify the Table of Allotments to substitute Channel 240C2 for Channel 240A at Columbia Falls, Montana be affirmed.

Respectfully submitted,

FRANK COPSIDAS, JR.

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April 9, 1993

CERTIFICATE OF SERVICE

I, Dan J. Alpert, hereby certify that the forgoing document was sent by First Class Mail, postage prepaid, to the following:

Robert Louis Thompson